Treasury Board's
Energy Leasing Program

Background: At its 2001 Session, the Virginia General Assembly enacted the Energy and Operational Efficiency Performance-Based Contracting Act which permits any public body to enter into an energy performance contract with an energy performance contractor to significantly reduce energy operating costs of a facility through one or more energy conservation or operational efficiency measures.

On July 23, 2003 Governor Warner issued Executive Order 54 that directed the Governor's Secretaries and all executive branch agencies to reduce energy costs and consumption in state government operations at least seven percent by 2004, when compared to a 2002 baseline and by at least ten percent by 2006 relative to a 2002 baseline, with a long–term goal of reducing energy consumption by the maximum amount feasible.

In September 2005, the Treasury Board issued a Request for Proposal and subsequently established a program for financing energy efficiency projects.

Purpose: The Energy Leasing Program enables Commonwealth agencies to obtain consistent and competitive credit terms for financing energy efficiency improvements.

The program provides a financing vehicle for qualifying energy projects that the using agency has evaluated and determined to be appropriate and cost effective.

Code Reference: Section 2.2-2417

- **Eligibility for Financing**

  - **Eligible Agencies:** Any agency, institution, board or authority of The Commonwealth of Virginia that receives appropriation from the General Assembly of the Commonwealth.

  - **Agency Responsibility:** Agencies are responsible for evaluating the merits and cost effectiveness of any energy project. Agencies are responsible for lease payments regardless of actual energy savings resulting from the project, however under a performance contract the agency may have recourse with the energy vendor if savings are insufficient.

  - **Energy Projects:** Equipment or services including improvements or retrofits to electrical, lighting and auxiliary systems, heating ventilating and air conditioning systems, building improvements and professional and nonprofessional services relating to the design, installation, training and monitoring of such equipment or systems, and subject to the Lessor's approval.

  - **Minimum Amount:** Energy Projects less than $100,000 are not eligible for financing through the Energy Leasing Program.

  - **Essential Property:** The property to be financed must be used for an essential governmental purpose.

- **Vendor Payments:** Lease proceeds will generally be paid directly to the agency vendor. Reimbursements to agencies for amounts paid prior to financing approval are limited by IRS regulations.

- **Lease Terms**

  - **Available Payment Terms:** 12 and 15 years (shorter terms may be available from the Treasury Board's Master Equipment Leasing Program)

    a) **Rate** - The rates on energy leases are indexed to U.S. Treasuries and are fixed at the time of each financing lease.

    b) **Payments** - May be made monthly, quarterly, semiannually or annually as established at the time of financing.

  - **Useful Life:** The term may not exceed the aggregate useful life of the equipment/project.

- **Interest Rates**

  - **Interest Rates:** The rates are indexed to the Treasury Constant Maturities 10 year term as published weekly in the Federal Reserve Statistical Release H.15 (519).

  - **Rates are fixed at the time of the financing.**

- **Legal Structure of the Energy Leasing Program**

  - **Single Lease Agreement:** The Treasury Board, through an Request for Proposal (RFP) process, negotiates a master lease agreement through one or more finance companies to provide financing for state agencies, institutions, boards and authorities. Each acquisition/financing under the Master Lease contract constitutes an "appendix" to the Master Lease agreement

  - **Tax-Exempt Lease:**

    a) **Governmental Borrower –** All state agencies, institutions, boards and authorities of the Commonwealth may borrow through the program to finance energy projects.

    b) **Governmental Use** – The projects financed must be for governmental use.

    c) **Lease Payments Subject to Appropriation** – The lease payments are subject to appropriation by the General Assembly each year.

    d) **Lease Term** – The term of the lease may not exceed the aggregate useful life of the project.

  - **Security Structure of the Energy Leasing Program:**

    a) **Lessor's Security Interest in Equipment/Project** – If an agency defaults or if the Master Lease terminates, the lessor can repossess all of the equipment/ projects financed under the Agreement.

b) **Creditworthiness of the Commonwealth** – The creditworthiness of the Commonwealth as a whole is considered and enhances the interest rates available through the program.

- **Accessing the Energy Leasing Program**

  - **Apply to the Department of the Treasury:** Agencies should submit financing requests to the Department of the Treasury. Financing requests should include:
    1. Request Form
    2. Copy of the Energy Audit
    3. Project Scope/Cashflows

  - **Approved Requests:** Prior to funding under any lease, the Agency will provide:
    1. Appendix
    2. Evidence that Lessor has been named as Co-Obligee under any payment and/ or performance bond.
    3. Completed escrow agreement, if applicable (projects constructed/acquired over an extended period of time require the use of an escrow account.)

- **Prepayment Provisions**

  - **Prepayment:** Leases may not be prepaid within two years of their commencement date. After 2 years Agencies may prepay the Lease in whole on any scheduled payment date thereafter.

- **Vendor/Third Party Financings**

  - **Treasury Board Approval:** Agencies are not required to use the Energy Leasing program, however, alternative financing arrangements must first be approved by the Treasury Board.

  - **Procurement Process:** Agencies must adhere to the State's procurement laws and regulations procuring financing arrangements.

  - **Treasury Board Review:** Treasury Board review is limited to the financial terms and conditions of the arrangement.

  - **Documents:** Agencies must provide Treasury Board with a copy of the final executed financing contract.

Primary Contact:

Calvin Johnson (804) 225-4931
Public Finance Analyst

Secondary Contact:

Leslie English (804) 371-0341
Public Finance Manager